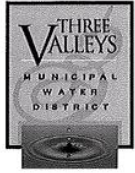


LO234 Three Valleys MWD



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January 31, 2012

Delta Stewardship Council
980 Ninth Street, Suite 1500
Sacramento, CA 95814

Dear Chairman Isenberg and Members of the Council:

On behalf of the Three Valleys Municipal Water District (TVMWD), I write to express our significant concerns with the 5th draft Delta Plan and the Delta Plan Draft Program Environmental Impact Report (draft EIR) that the Delta Stewardship Council (Council) released on November 4. These concerns include deficiencies under the California Environmental Quality Act (CEQA) and policy concerns with provisions of the draft Delta Plan. TVMWD concurs with the comments filed by the State Water Contractors and the San Luis & Delta-Mendota Water Authority and adopts them here, but wishes to emphasize a few key points as well. LO234-1

TVMWD is a public water agency covering 133 square miles throughout the eastern San Gabriel Valley of Los Angeles County, bordering both San Bernardino County and Orange County. We serve over 500,000 people through our member agencies, which include retail water districts, cities, community colleges and private water companies. LO234-2

In the Delta Reform Act of 2009 the California Legislature declared that the policy of California would be to pursue the coequal goals of a more reliable water supply for California and the protection, enhancement, and restoration of the Delta environment. Then it went further and created the Council to develop a Delta Plan that would pursue both of these goals. TVMWD has serious concerns that the draft Plan fails to pursue a more reliable water supply for Californians. Moreover, the draft EIR does not provide sufficient information to allow the public or the Council to assess whether the proposed project—the fifth draft of the Delta Plan—or any alternative will accomplish the Legislature's purpose. The draft EIR is lacking in every critical substantive area and we took the opportunity to express our concerns last month at a local public hearing on this issue. LO234-3

Draft Delta Plan Concerns

First, we wish to address WR P1, the first policy in Chapter Four, A More Reliable Water Supply for California. It is extremely troubling that the plan attempts to review and regulate local water management decisions on everything from rate structures to recycling targets. The California Legislature did not establish the Delta Stewardship Council to micromanage local water management decisions by scores of public agencies throughout the state. It was established to create a plan that could serve to coordinate the many local, state and federal efforts in the Delta. The Council should redirect its energy on the Delta, improving the reliability of water supplies and the ecological recovery of the estuary. LO234-4

Second, the draft does not clearly and unambiguously support a key objective of the Bay Delta Conservation Plan (BDCP) – the recovery of water supplies lost due to regulatory restrictions facing a water conveyance system that the BDCP intends to dramatically improve. The BDCP is further threatened by the draft Delta Plan's proposal to require virtually every significant future BDCP action to undergo an unnecessary review process by the Stewardship Council rather than to embrace BDCP actions as being consistent with the Delta Plan. LO234-5

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Response to comment LO234-1

Comment noted.

Response to comment LO234-2

Comment noted.

Response to comment LO234-3

Comment noted.

Response to comment LO234-4

This is a comment on the project, not on the EIR.

Response to comment LO234-5

Please refer to Master Response 1.

Third and finally is export reliability. The draft plan seems to imply that in the future, less water will need to be exported from the Delta area. The public water agencies that use water exported through the Delta are considering investing billions of dollars through the BDCP to restore water reliability while working towards Delta recovery efforts. The draft plan and the draft EIR seem to be assuming that those investments will actually decrease export reliability. LO234-6

Feedback by water agencies has echoed these concerns in voluminous comments, including an alternate Delta Plan approach proposed by various agricultural and urban interests throughout the state. The overly regulatory approach that permeates this draft will threaten the success of the Stewardship Council and detract from prospects of a successful, collaborative approach. We simply must get the Delta Plan right for the sake of our water supply, economy and environment. LO234-7

Draft EIR Concerns

Failure to Pursue a More Reliable Water Supply or Discuss Practical Impacts of Reducing Water Supply. The draft EIR supports a proposed project that would impede, rather than further, the achievement of the coequal goals. Of great importance to TVMWD is how the proposed project will achieve the "water supply" element of the coequal goals. The draft EIR clearly states that the proposed project will result in reduced water supplies compared to the status quo (no project alternative). The proposed project encourages substantial reductions in the water supplies developed in the watersheds of the Sacramento and San Joaquin rivers that are beneficially used for municipal, industrial and agricultural purposes. The Delta Plan Draft Program EIR assumes those reductions will be offset by "programs and projects that will improve self-reliance." (Delta Plan Draft Program EIR, p. 2A-6, lines 10 through 12.) The impacts of that paradigm are not adequately presented in the Delta Plan Draft Program EIR and are difficult to reconcile with the legal mandate that the Delta Plan "include measures to promote a more reliable water supply that [meets] the needs for reasonable and beneficial uses of water." (Water Code, § 85302(d)(1).) Simply put, water supplies conveyed through the Delta were developed because local and regional water supplies were insufficient to meet then existing or projected uses. There is no basis to assume sufficient actions can be taken, particularly within the time periods suggested, to offset the water supply reductions or to meet the needs of reasonable and beneficial uses of water, specifically to "sustain the economic vitality of the state." (Water Code, § 85302(d)(2).) LO234-8

Defective Project Objectives. The Project objectives do not adequately reflect the Legislature's requirement that implementation of the Delta Plan further the restoration of the Delta ecosystem and work toward a more reliable water supply—the coequal goals. The Delta Plan is a key document to achieve the co-equal goals, yet the draft EIR explicitly avoids any analysis as to how the alternatives in this document would or would not achieve the coequal goals. This is a glaring omission, leaving TVMWD, other stakeholders, and the Council itself without information to determine if the proposed project can meet its legislatively-driven objectives. LO234-9

Defective Project Description. The Council is proceeding with the draft EIR knowing the description of the proposed project is unstable and misleading. The Council plans to release two more staff drafts in the coming months. Therefore, elements of the proposed project are not reasonably certain to occur and thus it is not likely to satisfy the project objectives. LO234-10

Defective Impact Analysis. The draft EIR fails to properly assess how the proposed project as a whole will impact resources. The analysis should be focused on the broad strategies, policies, and recommendations in the Delta Plan as a complete integrated management plan. Instead, it focuses on project-specific examples of existing EIRs to demonstrate project-level physical impacts of subsequent actions by other agencies. In this way, the draft EIR fails to evaluate the environmental consequences of the proposed project (or the alternatives) as a whole. LO234-11

Defective Alternatives. The draft EIR does not contain an adequate range of alternatives. In fact, it does not contain any true alternatives according to CEQA's definition of meeting the most of project objectives, reducing significant environmental effects of the project as proposed, and being technically and institutionally feasible. (CEQA Guidelines, § 15126.6 (a) & (c).) The "alternatives" do not decrease significant environmental effects, but increase them, and the increased environmental effects that would occur as a result of reduced Delta exports have been entirely ignored. Specifically, the draft EIR assumes that other agencies will make up lost Delta supplies as a result of the project by building desalination plants, recycled water facilities, and other implementing other measures, but makes no attempt to consider the significant environmental effects of these actions. LO234-12

Defective Structure. The draft EIR is stuffed with over 2000 pages of information, but that information is disorganized, inordinately repetitive, and hard to follow. Neither a general reader nor a water expert can glean from this document the information necessary to determine the environmental impacts of the proposed project. LO234-13

Response to comment LO234-6

As the EIR acknowledges in Sections 3 and 7, the policies and recommendations of the Delta Plan may reduce the amount of Delta water available to some water users. These policies and recommendations, however, will increase the reliability of California's water supply. Reduced reliance on Delta water, and increased local and regional self-reliance, will provide water users with more predictable supplies and less vulnerability to climate change, natural variability in precipitation, and natural disaster. Under a more natural flow regime, the Delta ecosystem will move toward stability, which will allow the export and use of a consistent amount of water year by year, rather than the unpredictable present system of frequently re-balancing the needs of environmental, agricultural, and other beneficial users. Please also see Master Response 5.

Response to comment LO234-7

This is a comment on the project, not on the EIR.

Response to comment LO234-8

Regarding the ability of the Delta Plan and its water supply-related policies and recommendations to achieve the coequal goals, please refer to response to comment LO234-6. Regarding the environmental impacts of these policies and recommendations, please refer to Master Response 5.

Response to comment LO234-9

Please refer to Master Response 3.

Response to comment LO234-10

The Revised Draft PEIR analyzes the environmental impacts of the Final Draft Delta Plan, which the Council will consider for approval.

Response to comment LO234-11

Please refer to Master Response 2.

Response to comment LO234-12

The Reliable Water Supply subsection of each of EIR Sections 3 through 21 analyzes the environmental impacts of the development of local and regional water supplies. Regarding the selection of the range of alternatives considered in the EIR, please refer to Master Response 3. Alternatives 1A and 1B would each involve less development of local and

regional water supplies, and thus would reduce the associated environmental impacts as compared to the Revised Project.

Response to comment LO234-13

Please refer to Master Response 2.

Three Valleys Municipal Water District understands that the Council intends to release a sixth staff draft Delta Plan for public comment sometime this spring. We have seen progress since the first draft and we offer these comments in the hope that the sixth draft will promote a water supply that meets the needs for reasonable and beneficial uses of water at the same time that it promotes a healthier Delta environment. Given the changes to the draft Plan that are needed, we believe the Council must also release a new amended draft EIR that reviews these changes. As the Council begins drafting the next documents, TVMWD asks the Council to focus on the key areas mentioned in this letter and in the comments submitted by the State Water Contractors and the San Luis & Delta-Mendota Water Authority. We appreciate the tremendous effort to get the Delta Plan drafting process to this critical stage and hope to be an enthusiastic supporter of the final product.

If you have any questions or comments regarding our concerns, please contact me at 909-621-5568.

Sincerely,



Rick Hansen, P.E.
General Manager
Three Valleys Municipal Water District

cc: TVWMD Senators & Assembly Members

Response to comment LO234-14

The Final EIR includes the Recirculated Draft Program EIR, which included an evaluation of the Final Staff Draft Delta Plan.